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Durenberger scores secrecy of intercept

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The chairman of the Senate Intelligence Committee yesterday accused the Reagan administration of slighting Congress by the way it sent warplanes to capture the pirates who seized the Italian cruise ship Achille Lauro.

Sen. David Durenberger, Minnesota Republican, wants new laws to strengthen the congressional role in future U.S. anti-terrorist operations.

"My fear is that the administration will continue to slight the role of Congress in counterterrorist actions," he said, "... and then one of these daring deals will blow up in its face."

The senator said the War Powers Resolution and the Intelligence Oversight Act, the primary statutes governing the congressional oversight of U.S. intelligence and covert activities, may no longer be adequate to oversee the growing U.S. counterterrorism programs.

Sen. Durenberger's criticism, contained in a speech last night,

were the first criticism of the Reagan administration's failure to consult Congress on the U.S. response to the Oct. 7 cruise ship piracy in which an American tourist, 69, was murdered. Four of the hijackers were captured three days later when U.S. Navy F-16 fighter planes forced an Egyptian Air Boeing 737 jetliner — with the terrorists aboard — to land in Sicily.

"What if the Navy fighters had been required to fire on the Egyptian aircraft and had destroyed it and its occupants?" Mr. Durenberger asked. "What if this had led to a series of ever-widening military conflicts?"

"We were in a crisis of great potential impact on U.S. national security and U.S. foreign policy, yet at no time in the initial stages, final planning, or execution was Congress notified of the proposed administration course of action," he said. "No consultation took place."

Mr. Durenberger said he specifically asked the administration to inform the intelligence committee of any significant activity as soon as he learned of the hijacking from news accounts, but that requirement under the Intelligence Oversight Act was ignored.

"The committee was never notified of any such activity and has yet to receive the offer of a detailed briefing on the action which occurred," he said in a draft of his 25-page speech, prepared for delivery to the Johns Hopkins Foreign Policy Institute.

Mr. Durenberger, who has also been critical of administration failures to inform Congress about operations in Central America, called for "a mutual non-partisan effort to design a new strategy... which calls for a formalized notification process in its implementation and an annual review of the effectiveness."

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Reagan administration officials have complained that covert operations often require absolute secrecy and quick responses which could be compromised by notifying congressional leaders or the two CIA oversight committees.

Mr. Durenberger said because of those arguments the White House often has used "intricate legal gamesmanship" to avoid dealing with Congress despite "the flawless record of the intelligence committee in protecting our most sensitive secrets..."

"What may be the most effective course of action from the military or political point of view may be rejected because of the current requirements for notification," he said.

"In short, the administration may prefer to do the wrong thing in secret rather than doing the right

thing with congressional knowledge," he said. "The system has truly been stood on its head, and the effect could be disastrous."

Some of the points he raised last night have caused friction between Congress and the administration over covert operations in the last two years.

The issues that have erupted beyond the committee, which deals almost exclusively with classified matters, include the CIA-backed mining of Nicaraguan harbors, a CIA produced manual for the anti-Nicaraguan resistance that included assassination instructions, and the role of White House staff in raising funds for the resistance while a congressional ban against aid was in effect.

The senator said the oversight act is also no longer sufficient to accommodate "the evolution of a new and broader use of lethal force beyond our borders, that troubling contradiction in terms, the phenomenon of overt-covert action..."

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